

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-11573-RWZ

ANTHONY P. SCAPICCHIO, M.D.,	)
Plaintiff,	)
	)
v.	)
	)
MOUNT AUBURN PROFESSIONAL	)
SERVICES, a Massachusetts non-	)
profit corporation, MOUNT AUBURN	)
HOSPITAL, a hospital incorporated	)
in Massachusetts, for itself and as	)
administrator of the Mount Auburn	)
Hospital RetirementPlus 403(b)	)
Plan, and THOMAS FABIANO,	)
Defendants.	)
	)

**AFFIDAVIT OF PLAINTIFF ANTHONY P. SCAPICCHIO, M.D. IN SUPPORT  
OF MOTION FOR RECONSIDERATION**

I, Anthony P. Scapicchio, M.D., hereby state as follows:

1. I am the plaintiff in the matter captioned above, and the statements set forth in this Affidavit are based upon my personal knowledge. I am competent to testify regarding the facts set forth in this Affidavit, all of which would constitute admissible evidence.
2. I paid a portion of the premiums for the long-term disability plan ("the LTD Plan"), offered by Liberty Mutual Insurance Company, that I purchased while I was employed by Mount Auburn Hospital.
3. I was not subjected to taxation for that portion of the long-term disability benefits I received, under the LTD Plan, that was attributed to the premium I directly paid for the LTD Plan.

4. The monthly Explanation of Benefit Statements I received from Liberty Mutual reflect that 86.6% of my monthly long term disability payment was exempt from taxation.
5. The W-2 forms I received between 1995 and 2002 indicate that 86.6% of my long term disability payment was exempt from taxation.

**SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY**  
**THIS \_\_\_ DAY OF AUGUST, 2005.**

*Anthony P. Scapicchio M.D.*  
Anthony P. Scapicchio, M.D.

*Aug 17, 2005*

**CERTIFICATE OF SERVICE**

I, John S. Day, hereby certify that on the 18<sup>th</sup> day of August, 2005, I caused a copy of the foregoing to be served, by electronic filing, upon Philip M. Cronin, Peabody & Arnold, 30 Rowes Wharf, 6<sup>th</sup> Floor, Boston, Massachusetts 02110.

/s/

*[Signature]*  
John S. Day